

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY



REGINALD SCOTT :  
 : Civil Action No. 10-5636 (SRC)  
Plaintiff, :  
 :  
v. : **ORDER**  
 : (CLOSED)  
MICHELLE RICCI, et al., :  
 :  
Defendants. :

It appears that:

1. On October 29, 2010, Plaintiff submitted a document for filing. The document was labeled "Notice of Hearing for Evidentiary Petition Pursuant to 28 U.S.C. § 2254 . . ." (Docket entry 1). Plaintiff did not submit a filing fee or an application to proceed in forma pauperis. A review of the submission shows that Plaintiff seeks to have a § 2254 petition held in abeyance while he exhausts his state court remedies.

2. The Clerk of the Court mistakenly docketed the matter as this civil rights case, with a cause of action of 42 U.S.C. § 1983. However, it appears that it would be more properly filed as a habeas petition pursuant to 28 U.S.C. § 2254.


THEREFORE,

It is on this 22<sup>nd</sup> day of November, 2010,

ORDERED that the Clerk of the Court shall administratively terminate this case, without assessing a filing fee, and close this matter; and it is further

ORDERED that the Clerk of the Court shall open a new case, with a cause of action of 28 U.S.C. § 2254, and file Plaintiff's submission (docket entry 1), and this Order, in that case; the filings in the new case shall reflect a filed date of October 29, 2010; and it is finally

ORDERED that the Clerk of the Court shall send Plaintiff a copy of this Order, as well as a copy of the docket sheet for the newly-created habeas case.



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STANLEY R. CHESLER  
United States District Judge